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07 UNITED STATES DISTRICT COURT
08 WESTERN DISTRICT OF WASHINGTON
09 AT SEATTLE

10 BOBBY W. WELLS,

11 Plaintiff,

12 Case No. C12-1822-JLR-BAT

13 v.

14 REPORT AND RECOMMENDATION

15 KING COUNTY DEPARTMENT OF
16 DETENTION, *et al.*,

17 Defendants.

18 This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff submitted
19 his complaint to this Court for filing on October 16, 2012. He alleged therein that he had been
20 retaliated against after submitting grievances about staff misconduct at the King County
21 Regional Justice Center (“RJC”), that grievances for constitutional violations had been ignored,
22 and that he had been denied access to the law library after being transferred from the RJC to the
King County Jail in Seattle. Plaintiff identified the King County Department of Detention as a
defendant in his complaint along with department employees Kathy Van Olst, B. O’Farrell,

01 Sergeant Merritt, Sergeant S. Hansen, F. Sylvas, Corrections Officer Feichtner, Sergeant D.
02 Owens, Captain J. L. Hardy, D. Ogle, Captain Hayes, and Corrections Officer Q. Le.

03 After reviewing plaintiff's complaint, this Court determined that plaintiff had not
04 adequately alleged a cause of action against any of the named defendants. In addition, this
05 Court discovered, after reviewing other Court records, that the claims asserted by plaintiff in the
06 instant action were substantially similar to claims asserted by plaintiff in a separate pending
07 action which was proceeding under cause number C12-1697-TSZ-JPD. Accordingly, on
08 October 31, 2012, this Court issued an Order directing plaintiff to show cause why the instant
09 action should not be dismissed as duplicative of the action proceeding under cause number
10 C12-1697-TSZ-JPD. (Dkt. No. 7.)

11 Plaintiff filed a response to the Order to Show Cause on November 30, 2012. (Dkt. No.
12 10.) Plaintiff states therein that he agrees the claims asserted in the two actions are
13 substantially similar with the exception of claims asserted against a single individual, Brien
14 O'Farrell, which only came to plaintiff's attention after he filed his complaint in cause number
15 C12-1697-TSZ-JPD. (*Id.*) Plaintiff also states that he has no objection to pursuing all claims
16 in a single action so long as he is permitted to amend the complaint in his other pending action
17 to incorporate his additional claims. (*Id.*)

18 A review of the record in cause number C12-1697-TSZ-JPD reveals that the Honorable
19 James P. Donohue, United States Magistrate Judge, recently granted plaintiff leave to file a
20 second amended complaint in that action which incorporates all claims asserted by plaintiff in
21 this action. As it appears that plaintiff will be permitted to pursue all viable § 1983 claims
22 arising out of his recent incarceration in the DAJD in cause number C12-1697-TSZ-JPD, this

01 Court recommends that the instant action be dismissed as duplicative. A proposed order
02 accompanies this Report and Recommendation.

03 Any objections to this Recommendation must be filed no later than **February 13, 2013**.

04 The matter will be ready for the Court's consideration on **February 15, 2013**. Objections
05 shall not exceed five (5) pages. The failure to timely object may affect the right to appeal.

06 DATED this 23rd day of January, 2013.



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08 BRIAN A. TSUCHIDA
09 United States Magistrate Judge
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